

DOCKET 25835 - #7

§271(c)(2)(B) is, at this juncture, premature. We recognize that BellSouth has made substantial progress towards meeting the Act's requirements to obtain In-Region InterLATA authority, but it nonetheless appears that BellSouth's petition is not yet timely.

Our conclusions herein are based primarily on two areas of concern. First, the rates BellSouth relies on in its SGAT have not been determined to be cost based as required by §252(d). We note, however, that the Commission has just recently completed public hearings concerning the establishment of cost-based rates for unbundled network elements in Docket 26029. A Commission decision establishing those rates will resolve the vast majority of our concerns regarding cost-based rates.

The second major area of concern the Commission has with rendering a decision regarding BellSouth's SGAT at this time relates to the access BellSouth currently provides to its Operational Support Systems ("OSS"). It appears to us that BellSouth's OSS interfaces must be further revised to provide nondiscriminatory access to BellSouth's OSS systems as required by §251(c)(3) of the '96 Act. We have concerns that such nondiscriminatory access is not currently being provided.

We believe the most expeditious and effective method of ensuring that those OSS shortcomings are rectified in a timely manner is for the Commission to institute a further proceeding in this Docket wherein BellSouth must give a live demonstration of its OSS systems for the Commission, our staff and the intervenors in this cause. We believe that such a demonstration in a setting where the parties can engage in hands-on, give-and-take will be the most effective means of remedying the concerns we have with BellSouth's OSS interfaces. We

DOCKET 25835 - #8

further believe, however, that it is necessary for the Commission to establish performance standards in the OSS proceedings ordered herein so that BellSouth's provisioning of service to its competitors can be meaningfully compared to BellSouth's internal performance.

As was discussed on the record at our October 6, 1997 public meeting of the Commission, we believe that the measures discussed above are necessary steps in the process of bringing local and long distance competition to Alabama. We view the process of reviewing BellSouth's SGAT for purposes of determining checklist compliance as a continuing one which will be most effective if there is a constructive dialogue between the affected parties. Our initial proceedings in this cause were merely the first step in the on-going process of ensuring that local and long distance competition develop in this State.

Our views in this regard are apparently shared by BellSouth. BellSouth, through its Alabama President of Operations, Mr. R. Neal Travis, concurred with our recommendation that BellSouth waive the 60-day deadline of §252(f) indefinitely so that the cost and OSS proceedings discussed above can be brought to fruition. We view BellSouth's willingness to waive the statutory deadline indefinitely so that the expressed concerns regarding SGAT rates and OSS access can be resolved as a good faith measure. BellSouth's actions in this regard demonstrate the Company's commitment to doing its part to ensure that competition comes to all of Alabama's telecommunications markets.

IV. ORDERING CLAUSES

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the deadline for this Commission's decision as to whether BellSouth Telecommunications, Inc.'s August 8, 1997 SGAT

DOCKET 25835 - #9

meets the requirements of §252(f) of the Telecommunications Act of 1996 and is compliant with the provisions of §271(c)(2)(B) of the Telecommunications Act of 1996 is, with the oral and written concurrence of BellSouth Telecommunications, Inc., hereby suspended indefinitely. The Commission will, however, endeavor to render its determinations in this regard as expeditiously as possible following the completion of the Operational Support Systems proceedings ordered herein and the cost proceedings being conducted under Commission Docket 26029.

IT IS FURTHER ORDERED BY THE COMMISSION, That BellSouth Telecommunications, Inc. shall conduct a live, public demonstration of the electronic interfaces allowing access to its Operational Support Systems for the Commission, the Commission staff, and the intervenors to this proceeding at 9:30 a.m., on December 18, 1997, in the Commission Hearing Room, Suite 900, 100 North Union Street, Montgomery, Alabama 36104. BellSouth shall be further prepared to demonstrate or explain in detail any manual interfacing requirements it currently has in place with regard to its Operational Support Systems.

IT IS FURTHER ORDERED BY THE COMMISSION, That the intervenors in this cause who desire to participate in the above-noted Operational Support Systems demonstration shall file documentation listing the electronic interfaces they envision utilizing in their provision of local service in Alabama and the purported deficiencies in those interfaces as proposed by BellSouth no later than November 14, 1997. Such filings shall include any performance measures proposed by the intervenors to the extent that they have not already been addressed on the record in this proceeding.

DOCKET 25835 - #10

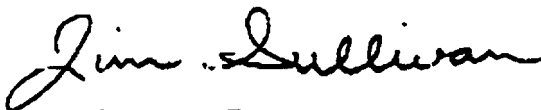
IT IS FURTHER ORDERED BY THE COMMISSION, That BellSouth Telecommunications, Inc. shall file its written responses to the claims of deficiencies in its Operational Support Systems interfaces and to any performance measures proposed by the intervenors no later than December 5, 1997.

IT IS FURTHER ORDERED BY THE COMMISSION, That jurisdiction in this cause is hereby retained for the issuance of any further order or orders that may be deemed just and reasonable in the premises.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this ~~16th~~ day of October, 1997.

ALABAMA PUBLIC SERVICE COMMISSION



Jim Sullivan, President

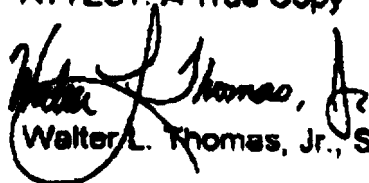


Jan Cook, Commissioner



Charles B. Martin, Commissioner

ATTEST: A True Copy



Walter L. Thomas, Jr., Secretary

EXHIBIT 6

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Excerpts from Staff
Recommendation, Florida Public
Service Commission, In Re:
Consideration of BellSouth
Telecommunications, Inc.'s Entry
into InterLATA Services Pursuant
to Section 271 of the Federal
Telecommunications Act of 1996,
Docket No. 960786-TL
(Oct. 22, 1997)**

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

October 22, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (AUDU, FOGLEMAN, GREER, MUSSELWHITE, NORTON, SIRIANNI, STAVANJA, WIDELL, WIGGINS)

DIVISION OF LEGAL SERVICES (BARONE, CULPEPPER, PELLEGRINI)

RE: DOCKET NO. 960786-TL - CONSIDERATION OF BELL SOUTH TELECOMMUNICATIONS INC.'S ENTRY INTO INTERLATA SERVICES PURSUANT TO SECTION 271 OF THE FEDERAL TELECOMMUNICATIONS ACT OF 1996.

AGENDA: NOVEMBER 3, 1997 - SPECIAL AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF - ISSUE 18A IS A PROPOSED AGENCY ACTION

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\960786TL.RCM

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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REGISTRATION

TABLE OF CONTENTS

LIST OF ACRONYMS	- 6 -
EXECUTIVE SUMMARY	- 10 -
CASE BACKGROUND	- 13 -
ISSUE 1A: Has BellSouth met the requirements of Section 271 (c) (1) (A) of the Telecommunications Act of 1996? (Siriani)	
(a) Has BellSouth entered into one or more binding agreements approved under Section 252 with unaffiliated competing providers of telephone exchange service?	
(b) Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?	
(c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?	
.	- 16 -
<u>ISSUE 1B:</u> Has BellSouth met the requirements of Section 271(c) (1) (B) of the Telecommunications Act of 1996? (Siriani)	
(a) Has an unaffiliated competing provider of telephone exchange service requested access and interconnection with BellSouth?	
(b) Has a statement of terms and conditions that BellSouth generally offers to provide access and interconnection been approved or permitted to take effect under Section 252(f)?	- 42 -
<u>ISSUE 1C:</u> Can BellSouth meet the requirements of section 271(c) (1) through a combination of track A (Section 271(c) (1) (A) and track B (Section 271(c) (1) (B)? If so, has BellSouth met all of the requirements of those sections? (Barone)	
	- 51 -

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

ISSUE 2: Has BellSouth provided interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(I) and applicable rules promulgated by the FCC? (Norton) - 59 -

ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC? (Stavanja) - 86 -

ISSUE 3a: Has BellSouth developed performance standards and measurements? If so, are they being met? (Audu) . . - 131 -

ISSUE 4: Has BellSouth provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of section 224 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC? (Widell) - 151 -

ISSUE 5: Has BellSouth unbundled the local loop transmission between the central office and the customer's premises from local switching or other services, pursuant to section 271(c)(2)(B)(iv) and applicable rules promulgated by the FCC. (Audu) - 156 -

ISSUE 6: Has BellSouth unbundled the local transport on the trunk side of a wireline local exchange carrier switch from switching or other services, pursuant to section 271(c)(2)(B)(v) and applicable rules promulgated by the FCC? (Audu) - 168 -

ISSUE 7: Has BellSouth provided unbundled local switching from transport, local loop transmission, or other services, pursuant to section 271(c)(2)(B)(vi) and applicable rules promulgated by the FCC? (Audu) - 175 -

ISSUE 8: Has BellSouth provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC? (Greer) . . - 184 -

ISSUE 9: Has BellSouth provided white pages directory listings for customers of other telecommunications carrier's telephone exchange service, pursuant to section

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

271(c)(2)(B)(viii) and applicable rules promulgated by the FCC? (Musselwhite)	199 -
<u>ISSUE 10</u> : Has BellSouth provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) and applicable rules promulgated by the FCC? (Wiggins)	208 -
<u>ISSUE 11</u> : Has BellSouth provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) and applicable rules promulgated by the FCC? (Fogleman)	214 -
<u>ISSUE 12</u> : Has BellSouth provided number portability, pursuant to section 271(c)(2)(B)(xi) and applicable rules promulgated by the FCC? (Wiggins)	231 -
<u>ISSUE 13</u> : Has BellSouth provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC? (Siriani)	242 -
<u>ISSUE 14</u> : Has BellSouth provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Telecommunications Act of 1996, pursuant to section 251(c)(2)(B)(xiii) and applicable rules promulgated by the FCC? (Norton)	248 -
<u>ISSUE 15</u> : Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC? (Musselwhite)	255 -
<u>Issue 15a</u> : Has BellSouth developed performance standards and measurements? If so, are they being met? (Audu)	289 -
<u>ISSUE 16</u> : By what date does BellSouth propose to provide intraLATA toll dialing parity throughout Florida pursuant to section 271(e)(2)(A) of the Telecommunications Act of 1996? (Siriani)	291 -

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

ISSUE 17: If the answer to issues 2-15 is "yes", have those requirements been met in a single agreement or through a combination of agreements? (Greer) - 294 -

ISSUE 18: Should this docket be closed? (Greer) - 297 -

ISSUE 18A: Should the Commission approve BellSouth's statement of generally available terms and conditions (SGAT) pursuant to Section 252(f) of the 1996 Telecommunications Act? (Siriani) - 299 -

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

LIST OF ACRONYMS

ACSI	American Communications Services, Inc., American Communications Services of Jacksonville Inc.
AIN	Advanced Intelligence Network
ALEC	Alternative Local Exchange Carrier
ALI/DMS	Automatic Location Identification/Data Management System
AT&T	AT&T Communications of the Southern States, Inc.
BAPCO	BellSouth Advertising and Publishing Company
BOC	Bell Operating Company
BR	Brief of Evidence
BST/BellSouth	BellSouth Telecommunications, Inc
CABS	Carrier Access Billing System
CGI	Common Gateway Interface
CSR	Customer Service Record
CWA	Communications Workers of America
DA	Directory Assistance
DOE	Direct Order Entry
DOJ	Department of Justice
DSAP	Direct Order Entry Support Application Program
EBI	Electronic Bonding Interface
EC-Lite	

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

ECG	Electronic Communications Gateway
EDI	Electronic Data Interchange
EDI-PC	
EXACT	Exchange Access Control and Tracking System
EXH	Exhibit
FCC	Federal Communications Commission
FCCA	Florida Competitive Carriers Association
FCTA	Florida Cable Television Association
FID	Field Identifier
FOC	Firm Order Confirmation
FPSC	Florida Public Service Commission
FUEL	FID, USOC, and Edit Library
ICI	Intermedia Communications of Florida, Inc.
ILEC	Incumbent Local Exchange Carrier
ISDN	Integrated Services Digital Network
IXC	Interexchange Carrier
LCSC	Local Carrier Service Center
LENS	Local Exchange Navigation System
LEO	Local Exchange Ordering
LESOG	Local Exchange Service Order Generator
LIDB	Line Information Database

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

LRIC	Long Run Incremental Cost
LSR	Local Service Request
LTR	Local Transport Restructure
MAC	Move, add, or change order
MCI	MCI Metro Access Transmission Services, Inc. & MCI Telecommunications Corporation
MFN	Most Favored Nation
MFS	Metropolitan Fiber Systems of Florida, Inc.
OSS	Operational Support Systems
PCS	Preferred Carrier Services, Inc.
RBOC	Regional Bell Operating Company
RNS	Regional Negotiation System
SCE	Service Creation Environment
SCP	Signaling Control Point
SGAT	8/25/97 - Statement of Generally Available Terms and Conditions
SMS	Service Management System
SOCS	Service Order Control System
SOLAR	Service Order Layout Assembly Routine
SONGS	Service Order Negotiation System
Sprint/SMNI	Sprint Communications Company Limited Partnership/Sprint Metropolitan Network, Inc.
SS7	Signaling System 7
STP	Signaling Transfer Point

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

STS	Shared Tenant Services
TA96/ACT	Telecommunications Act of 1996
TCAP	Transaction Capability Application Part
TAFI	Trouble Analysis Facilitation Interface
TCG	TCG of South Florida
TELRIC	Total Element Long Run Incremental Cost
Time Warner	Time Warner AxS of Florida, L.P./Time Warner Connect
TR	Transcript
TRA	Telecommunications Resellers Association
TSLRIC	Total Service Long Run Incremental Cost
UNE	Unbundled Network Element
USOC	Uniform Service Order Code
Worldcom	Worldcom, Inc.

EXECUTIVE SUMMARY

Issues 1A and 1B address whether BST has met the requirements of Track A and/or Track B under Section 271(c)(1). Staff has recommended that BST has not met the requirements of either track. BST has entered into binding agreements with unaffiliated competing providers; however, competitors are providing service exclusively or predominantly over their own facilities only to business customers, and not to residential customers. In addition, an unaffiliated provider has requested access and a Statement of Generally Available Terms and conditions (SGAT) has not been approved by this Commission.

Issue 1C addresses whether BST can meet the requirements of Section 271(c)(1) through a combination of Tracks A and B, and if so, has it done that. Staff has recommended first that BST cannot meet the requirements through a combination of Tracks A and B, and second, that BST should be permitted to use a state-approved SGAT to show that checklist items are available, but that it is not eligible to do so at this time.

Issues 2 through 15 address the fourteen checklist items specified in Section 271(c)(2)(b) of the Act. Staff's recommendation is that BST has not met all the requirements as contained in the Act.

Specifically, staff has recommended that BST has met the following checklist items:

- Issue 4 - Access to poles, ducts, conduits, and right-of-way;
- Issue 9 - Provision of white pages directory listings for ALEC customers;
- Issue 10 - Access to telephone numbers for assignment to ALEC customers;
- Issue 11 - Access to databases and signalling for call routing and completion;
- Issue 13 - Access to services or information to allow ALECs to implement local dialing parity;

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

Staff has also recommended that BST has not met the remaining checklist items:

- Issue 2 - Facilities-based interconnection, including collocation;
- Issue 3 - Access to unbundled network elements;
- Issue 3a - Performance Standards for unbundled network elements;
- Issue 5 - Unbundled local loop transmission;
- Issue 6 - Unbundled local transport;
- Issue 7 - Unbundled local switching;
- Issue 8 - Access to 911 and E911 services, directory assistance services, and operator call completion services;
- Issue 12 - Number portability;
- Issue 14 - Reciprocal Compensation arrangements;
- Issue 15 - Telecommunications services available for resale;
- Issue 15a - Performance standards for resale services.

Per Issue 16, BST has provided 1+ intraLATA presubscription in its Florida end offices as of March 1997.

If BST had met all the checklist items in Issues 2-15, Issue 17 addresses whether those requirements had been met in a single agreement or through a combination of agreements. This issue is moot since BST has not met all the requirements of the checklist. However, staff has recommended that if BST had met all the requirements, it could have met them through a combination of agreements approved by this Commission.

Issue 18 recommends that this docket remain open.

Issue 18A addresses the approval of the SGAT by the Commission. Staff recommends that the Commission deny BST's SGAT filing as non-compliant with requirements established in Section 251(f) of the Act.

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

SUMMARY OF COMPLIANCE

REQUIREMENTS	PASS	FAIL
Track A (Issue 1C)		✓
Track B (Issue 1B)		✓
Checklist Item (i) (Issue 2)		✓
Checklist Item (ii) (Issue 3)		✓
Checklist Item (iii) (Issue 4)	✓	
Checklist Item (iv) (Issue 5)		✓
Checklist Item (v) (Issue 6)		✓
Checklist Item (vi) (Issue 7)		✓
Checklist Item (vii) (Issue 8)		✓
Checklist Item (viii) (Issue 9)	✓	
Checklist Item (ix) (Issue 10)	✓	
Checklist Item (x) (Issue 11)	✓	
Checklist Item (xi) (Issue 12)		✓
Checklist Item (xii) (Issue 13)	✓	
Checklist Item (xiii) (Issue 14)		✓
Checklist Item (xiv) (Issue 15)		✓

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of section 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC? (Stavanja)

RECOMMENDATION: No. BellSouth has failed to demonstrate that it provides nondiscriminatory access to unbundled network elements requested by competing carriers. In addition, BellSouth has not demonstrated that it has provided access to Operations Support System functions in essentially the same time and manner as it does for itself.

POSITION OF THE PARTIES

ACSI: No. BellSouth has neither provided nondiscriminatory access nor has the company developed performance standards or measurements.

AT&T: No. In order to meet this checklist item, BellSouth must prove that it actually has provided or presently is capable of providing network elements not yet requested, and access to all requested network elements at parity and on a nondiscriminatory basis. BellSouth has not done so. Among other things, BellSouth has not yet implemented nondiscriminatory access to its OSS to order network elements. Further, BellSouth cannot render a bill for usage sensitive elements of the local switch as required by Act. 47 U.S.C.A. sections 251(c)(3), 153(29), and 153(45)

BST: Yes. Access is available and provided to network elements on a nondiscriminatory basis. Also, a number of physical collocation arrangements are in progress.

FCCA: No. BellSouth has failed to provide nondiscriminatory access to unbundled switching, as a separate element. It has failed to provide unseparated network element combinations. BellSouth has failed to prove that it can provide billing for unbundled switching on terms of parity. BellSouth has failed to comply with the FCC rule requiring it to switch customers to a new local entrant in the same interval that it switches customers between IXCs using the local switching network element.

FCTA: No. BellSouth has failed to meet its burden of demonstrating compliance with the Act and FCC 's rules.

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

ICI: No, BellSouth has not provided Intermedia with access to unbundled network elements ("UNEs") (e.g., unbundled frame relay loops and unbundled subloops) at any technically feasible point consistent with the requirements of the 1996 Act. Similarly, because nondiscriminatory access to BellSouth's OSS is not completely available to Intermedia and other competing providers of telephone exchange services at parity with BellSouth, BellSouth is not providing nondiscriminatory access to network elements consistent with the 1996 Act.

MCI: No, BellSouth has failed for a number of reasons. First, the prices for UNEs are not cost-based as required by the Act. Second, BST refuses to provide combinations of UNEs, even where those elements are combined in its network today. Third, BST's OSS for UNEs do not meet the nondiscrimination requirement of the Act.

MFS/WorldCom: No. BellSouth has not provided nondiscriminatory access to network elements primarily due to its failure to provision the "platform" and its failure to properly price the elements.

Sprint: No. Loop, switch and transport unbundling is technically feasible. Network elements are not the same as retail services for pricing purposes. BellSouth must prove a requested network element is not technically feasible. There should be no discrimination in the provision of network elements. Once provided, a network element should be presumed to be technically feasible. Prices for network elements should be cost-based. There should be no restrictions on how network elements can be used.

TCG: No. BellSouth has not demonstrated that it is providing nondiscriminatory access to network elements in accordance with the requirements of Sections 253(c)(3) and 252(d)(1) of the Act.

STAFF ANALYSIS: This issue addresses whether or not BST has provided nondiscriminatory access to network elements in accordance with the Act, FCC rules and orders, and FPSC orders. In addition, this issue addresses nondiscriminatory access to Operations Support System (OSS) functions. Access to OSS functions is integral to the actual provision of unbundled network elements (UNEs) and other services. This issue corresponds with checklist item (ii) of the Act.

INTERPRETATION OF THE ACT'S REQUIREMENTS

In this section of the analysis, staff provides the requirements per the Act, and the FCC's interpretation of those

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

requirements from the FCC's First Report and Order (EXH 1, FCC 96-325, also known as the Local Competition Order), and the FCC's Ameritech Order (EXH 1, FCC 97-298). Staff will conclude the analysis of this section by summarizing the requirements being used for this issue.

SECTION 271 REQUIREMENTS

Section 271(c)(2)(B) states that access or interconnection provided or generally offered by a Bell operating company must meet certain checklist items. Checklist item two is referenced in the Act as Section 271 (c)(2)(B)(ii). This section states that a Bell operating company meets this subsection if such access and interconnection includes:

Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1).

Section 251(c)(3) states:

Unbundled Access.-The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

Section 252(d)(1) states:

Interconnection and Network Element Charges.-Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (C)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section-

(A) shall be-

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

(I) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and
(ii) nondiscriminatory, and
(B) may include a reasonable profit.

FCC'S INTERPRETATION OF SECTION 271 REQUIREMENTS

The FCC interpreted the requirements of the Act in its First Report and Order (EXH 1, FCC 96-325). In addition, the FCC developed a set of rules under its authority provided in the Act. Due to the length of each rule developed by the FCC regarding UNEs, staff will provide a summary of each rule.

FCC Rules

First, 47 C.F.R. §51.307, Duty to provide access on an unbundled basis to network elements. This rule restates, in subpart (a), the nondiscriminatory access standard of the Act for UNEs.

Subpart (b), states that the duty to provide access to UNEs in accordance with 251(c)(3) of the Act includes a duty to provide a connection to a UNE, independent of any duty to provide interconnection.

Subpart (c), states that an incumbent LEC shall provide all of the features, functions, and capabilities of the requested UNE, such that any telecommunications service may be offered by means of that network element.

Subpart (d), states that an incumbent LEC shall provide a requesting carrier, access to a feature or functionality of a network element, separate from a feature or functionality of any other network element. The incumbent LEC may impose a charge for such separation.

Section 51.309, Use of unbundled network elements. It states in subpart (a), that an incumbent LEC shall not impose restrictions or limitations on the use of UNEs, that would not allow a requesting carrier to provide a service in the manner that it intends.

Subpart (b), states that a carrier may provide exchange access services to itself, in order to provide interexchange service to its subscribers, when purchasing access to UNEs.

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

Subpart (c), states that a carrier is entitled to exclusive use of a UNE or a feature, function, or capability, that is purchased, for a period of time. The incumbent LEC is not discharged from its duty to provide maintenance or repair of the UNE.

Section 51.311, **Nondiscriminatory access to unbundled network elements.** This rule states in subpart (a), that the quality of a UNE, as well as the quality of access to the UNE, shall be the same for all carriers.

Subpart (b) states that the quality of a UNE, as well as the quality of access to the UNE, shall be at least equal in quality to that which the ILEC provides for itself. The ILEC is charged with the duty to demonstrate to the state commission, why it cannot meet this requirement.

Subpart (c) requires ILECs to provide a superior level of quality than it provides to itself, if a carrier requests such quality. This subpart was vacated by the Eighth Circuit Court of Appeals (Iowa Util. Bd. V. FCC, Nos. 96-3321, et al., 1997 WL 403401, at 46(8th Cir., July 18, 1997)).

Section 51.313, **Just, reasonable and nondiscriminatory terms and conditions for the provision of unbundled network elements.** Subpart (a) states that the terms and conditions for UNES shall be offered equally to all carriers.

Subpart (b) requires that the time period for provisioning access to UNES must not be less favorable to a requesting carrier than that which the ILEC provides to itself.

Subpart (c) requires the ILEC to provide access to the five functions of the ILEC's OSS to a carrier purchasing UNES from the ILEC.

Section 51.315, **Combination of unbundled network elements.** This rule requires, in subpart (a), an ILEC to provide UNES in such a manner that a requesting carrier may combine the UNES to provide a service.

Subpart (b), prohibits an ILEC from separating any UNES that are currently combined.

Subparts (c)-(f) of Section 51.315, have been vacated by the 8th Circuit Court. (Iowa Util. Bd. V. FCC, Nos. 96-3321, et al., 1997 WL 403401, at 46(8th Cir., July 18, 1997) Even though these

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

subparts have been vacated by the court, staff provides a summary of each.

Subpart (c), requires an ILEC to combine UNEs in any manner requested by a carrier, unless the combination is not technically feasible or, if the combination would restrict access to UNEs by other carriers.

Subpart (d) requires the ILEC to combine its UNEs with any network elements owned by a requesting carrier in any technically feasible manner.

Subpart (e) requires an ILEC to demonstrate to a state commission why a requested combination of UNEs is not technically feasible to provide.

Subpart (f) states that an ILEC must prove to a state commission that the reason for denying a request to combine UNEs is because the combination would impair the ability of other carriers to access UNEs or to interconnect with the ILECs network.

Section 51.317, Standards for identifying network elements to be made available. This rule states that a state commission shall determine the technical feasibility of providing access to a network element on an unbundled basis. The rule only permits of the state commission to decline unbundling of an element if doing so: (1) reveals proprietary information and that it is technically feasible for a carrier to provide service by using other nonproprietary UNEs; and (2) that if the ILEC refused to offer access to a UNE, the quality and cost to the carrier to provide a service would not change, when compared to offering the same service via UNEs belonging solely to the ILEC. This rule was also vacated by the 8th Circuit Court, to the extent that this rule establishes a presumption that a network element must be unbundled if it is technically feasible to do so. (Iowa Util. Bd. V. FCC, Nos. 96-3321, et al., 1997 WL 403401, at 46(8th Cir., July 18, 1997)

Section 51.319, Specific unbundling requirements. This rule lists, as a minimum, seven UNEs that an ILEC must provide to requesting carriers for the provision of telecommunications service. The technical feasibility of offering other UNEs by the RBOC is left to the discretion of the state Commission.

The above stated rules apply to access and provisioning of UNEs. The FCC has also developed rules regarding the pricing of UNEs. The pricing section of the FCC's rules fall under Subpart F. However, the 8th Circuit Court vacated all of the rules contained

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

in Subpart F, i.e., §51.501-515, inclusive, except for §51.515(b), which deals with the application of access charges. (Iowa Util. Bd. V. FCC, Nos. 96-3321, et al., 1997 WL 403401, at 46(8th Cir., July 18, 1997))

FCC First Report and Order

The FCC defines access to network elements on an unbundled basis to mean that "incumbent LECs must provide the facility or functionality of a particular element to requesting carriers, separate from the facility or functionality of other elements, for a separate fee." The FCC states further that access to an unbundled network facility includes exclusive use of that facility, including that facility's features, functions and capabilities, for a period of time. (§268)

The FCC states that the duty to provide unbundled network elements on terms, and conditions that are just, reasonable, and nondiscriminatory as stated in the Act, means that the terms and conditions must be provided equally to all carriers, and in the same manner as the incumbent LEC provides to itself. The FCC concludes that such terms and conditions must provide an efficient carrier with a meaningful opportunity to compete. (§315)

The FCC states in the Local Competition Order that "operations support systems and the information they contain fall squarely within the definition of 'network element' and must be unbundled upon request." (§516)

In addressing the importance of competing carriers to access the OSS functions of an incumbent LEC, the FCC states that:

...if competing carriers are unable to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially the same time and manner that an incumbent can for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing. Thus providing nondiscriminatory access to these support systems functions, which would include access to the information such systems contain, is vital to creating opportunities for meaningful competition. (§ 518)

The FCC concluded that access to OSS functions is essential to the ability of competitors to provide services. In addition, an incumbent LEC must provide access in the same manner that itself enjoys. Therefore, if an incumbent LEC utilizes an electronic

DOCKET NO. 960786-TL
DATE: OCTOBER 22, 1997

interface to access the support systems, then it must provide the same access to competing providers also. (§523)

FCC interpretation per the Ameritech Order:

The FCC reviewed the case where Ameritech, an RBOC, applied for interLATA authorization in Michigan. The FCC explains its review and subsequent denial of the Ameritech filing in Order No. 97-298 (the Ameritech Order). The FCC did not evaluate, or comment on, each and every checklist item. With respect to checklist item (ii), the FCC did not comment on whether or not Ameritech was providing nondiscriminatory access to all UNEs. The FCC limited its evaluation of UNEs under checklist item (ii), to whether or not Ameritech provided nondiscriminatory access to all of the operational support systems (OSS) functions. Further, the FCC evaluation included comments on Ameritech's offering of combinations of UNEs.

The FCC reaffirmed its position on combinations of UNEs in the Ameritech Order. The FCC stated that "the ability of new entrants to use UNEs, as well as combinations of UNEs, is integral to achieving Congress' objective of promoting competition in the local market." The FCC also commented that the 8th Circuit Court upheld its rule (Rule 51.315 (b)) that prohibits ILECs from separating network elements that the ILEC currently combines. (§§332-337)

The FCC has determined that RBOCs must provide nondiscriminatory access to OSS functions. The FCC concluded that access to OSS functions falls within an RBOCs duty under section 251(c)(3) to provide UNEs (§130) and believes that because §§251(c)(3) and 251(c)(4) include OSS, an examination of an RBOCs OSS is necessary to evaluate compliance with the UNE and resale portions of the checklist (§131)

The FCC states that the RBOC's duty to provide items under the checklist, must include rates and terms that comply with the Act "or, where no competitor is actually using the item, to make the item available as both a legal and practical matter." The FCC also determined that OSS functions are a "term or condition" of unbundling other network elements and concluded that OSS performance is integral to the determination of whether or not the RBOC is providing all of the items contained in the checklist. (§132)

The FCC listed several components for the provision of access to OSS. These components include: